

Settlement Date: February 11, 2014 at Noon
Objection Date: February 11, 2014 at 11:30 a.m.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation
of Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

LAURENCE E. LEIF,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 10-04601 (SMB)

ORDER DENYING MOTIONS FOR DISQUALIFICATION OF MEDIATOR

WHEREAS, Laurence E. Leif, represented by Milberg LLP, is a defendant in the above-captioned adversary proceeding (the “Adversary Proceeding”) brought by Irving H. Picard (the “Trustee”), as trustee for the SIPA liquidation of Bernard L. Madoff Investment Securities LLC; and

WHEREAS, Mr. Leif, acting *pro se*, has separately objected to the Trustee's determination of a SIPA claim filed by Mr. Leif related to a customer account not subject to the Trustee's legal claims in the Adversary Proceeding (the "Claim Dispute"); and

WHEREAS, on October 21, 2013, this Court referred the Claim Dispute and the Avoidance Action to mediation pursuant to the "Adoption Of Procedures Governing Mediation Of Matters And The Use Of Early Neutral Evaluation And Mediation/Voluntary Arbitration In Bankruptcy Cases And Adversary Proceedings," docketed December 1, 2009, and any amendments thereto (the "General Order") and pursuant to the Litigation Case Management Procedures For Avoidance Actions, *see* Case No. 08-1789, Dkt. No. 3141 (the "Mediation Order"), and further ordered that former bankruptcy judge Melanie L. Cyganowski be appointed to serve as the mediator for the parties in accordance with General Order § 2.2 B; and

WHEREAS, on January 7, 2014, Mr. Leif, acting *pro se*, submitted a letter to this Court seeking to replace the appointed mediator based upon a prior encounter between Mr. Leif and Judge Cyganowski; and

WHEREAS, on January 13, 2014, Matthew A. Kupillas of Milberg LLP also submitted a letter to this Court seeking permission to file a motion to replace the appointed mediator on the same basis; and

WHEREAS, on January 29, 2014, during a hearing before this Court, Mr. Kupillas indicated that his letter could be construed as a motion to replace the appointed mediator (collectively with Mr. Leif's letter, the "Disqualification Motions");

THEREFORE, for the reasons stated on the record at the January 29, 2014 hearing, it is hereby

ORDERED that: (i) the Disqualification Motions are denied; and (ii) the foregoing is without prejudice to the parties to mutually agree to a substitute mediator if they believe that a different mediator will advance the goal of mediation, provided that any such agreement is subject to further order of the Court.

Dated: February ___, 2014
New York, New York

Stuart M. Bernstein
United States Bankruptcy Judge